



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 24, 2017

BY ECF

The Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Joseph Percoco, et al.*, 16 Cr. 776 (VEC)

Dear Judge Caproni:

The Government respectfully writes in response to two orders by the Court relating to discovery in the above-referenced case. In particular:

- (i) the January 25, 2017 order requiring the Government to update the Court weekly with regard to the status of discovery; and
- (ii) the March 16, 2017 order requiring the Government to respond to the *Brady* and supplemental discovery requests set forth in the defendants' March 10, 2017 joint letter to the Court (the "March 10 Letter").

Status of Discovery

With regard to the status of discovery, since its last update letter, the Government has made available an additional 117,175 pages of documents to the defendants. To date, the Government has produced approximately 2.01 million pages of documents, as well as forensic images and extracted user files from 22 electronic devices.¹ Specifically with regard to its ongoing investigation, the Government has obtained approximately 180,000 pages of additional discoverable materials since the first pretrial conference on December 1, 2016. Approximately 137,000 pages of the post-December 1 materials have been produced (and included in the discovery totals above), with the remainder currently being processed for production. The Government will produce these new materials promptly as they become available.

The Government is also processing for production approximately 100 emails and attachments that previously had been withheld as potentially privileged. The Government continues to work with various counsel, including counsel for defendants Joseph Percoco and

¹ The Government also notes that certain documents are being processed for reproduction based on a recent request from defense counsel. A third party produced the documents to the Government in .pdf format, and the documents were provided to the defendants in the same format. Although the Government reviewed the production in that format, at the request of counsel for Peter Galbraith Kelly, Jr., the Government is working with the third party to obtain a replacement production containing metadata.

Alain Kaloyeros, to obtain privilege logs and/or release any additional documents previously withheld as potentially privileged.

The Defendants' March 10 Letter

On March 23, 2017, the Government responded, by letter to all defendants, to the *Brady* and supplemental discovery requests referenced in the March 10 Letter. The Government has now responded to the seven defense letters referenced in the March 10 Letter, in addition to the other requests contained in the March 10 Letter.²

Respectfully submitted,

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cc: Counsel for all defendants (via ECF)

² The seven letters referenced in the March 10 Letter were letters “sent between December 16, 2016 and February 23, 2017.” The Government has received one additional discovery-related letter and multiple discovery-related email requests since February 23, 2017, to which the Government has provided responses. In addition, on February 28, 2017, the Government received a bill of particulars request from Kelly. On March 7, 2017, the Government received a bill of particulars request from Percoco. The Government is working diligently to respond to these bill of particulars requests, and intends to respond to both requests by no later than April 10, 2017.